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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/868,248

06/15/2001

Enric Mitjana

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10/04/2004

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EXAMINER

UBILES, MARIE C

ART UNIT

PAPER NUMBER

2642

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,248

Applicant(s)

MITJANA, ENRIC

Examiner

Marie C. Ubiles

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 7-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/15/01, 8/28/01</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted element is: "a first subscriber terminal" performing the step specifying "carrying out a signal transmission in the channel at a transmitting power which corresponds to the previously determined attenuation value".

Due to 112 problem; the Examiner is unable to find the appropriate art.
3. Claim 1 recites the limitation "greater transmitting power" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

4. Claims 2-5 and 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claim 10 is allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 10 recites in a "a subscriber station for a radio communication system...a control device to set transmit power for the signal transmission to a value which a

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greater than a transmitting power corresponding to the previously determined attenuation value".

No prior art was found teaching individually, or suggesting in combination, the combination of claim 10, specifically setting of transmit power for the signal transmission to a value which is greater than a transmitting power corresponding to the previously determined attenuation value.

Keskitalo et al. (WO 95/24102) discloses a system that provides the use of magnified transmission powers for the prioritization of signals of the second subscriber stations with respect to the non-prioritized signals of the first subscriber stations. However, in Keskitalo's et al. system, the magnitude of the magnification of the transmission power is constant for all second subscriber stations.

Saario (US 6,272,354) discloses a system for adjusting transmit power during call set-up in a CDMA cellular radio system. In Saario's system, SIR (signal-to-noise ratio)(i.e. attenuation value) is calculated in order to obtain an initial transmit power ($P_{i,ms}$) to establish call setup. However, this initial power is gradually increased to a calculated value P_{ms} .

ETSI SMG2 UMTS L1 Expert Group (Ericsson) teaches a modification of the current random access scheme, wherein the initial random access can be transmitted with an additional negative power offset, the random-access burst is then retransmitted with reduced power offset until the network acknowledges a correctly decoded random-access message.

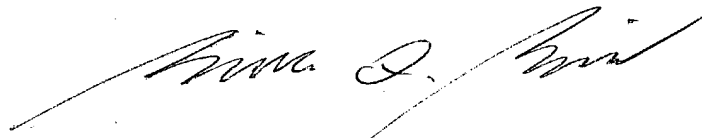
It can be seen that Keskitalo's et al., Saario's systems and the teachings of ETSI SMG2 UMTS L1 Expert Group (Ericsson) lack the step of arbitrarily magnifying the transmission power to a value greater than a transmitting power corresponding to the previously determined attenuation value.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marie C. Ubiles whose telephone number is (703) 305-0684. The examiner can normally be reached on 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Marie C. Ubiles
September 21, 2004.



BING Q. BUI
PRIMARY EXAMINER